



January 28, 2004

SENATE BILL No. 382

DIGEST OF SB 382 (Updated January 26, 2004 12:35 pm - DI 102)

Citations Affected: IC 3-7.

Synopsis: Voting rights of a person convicted of a felony. Provides that a person who is convicted of a felony after June 30, 2004, is not eligible to vote or to register to vote until the person is no longer incarcerated, on parole, or under court supervision. Requires the county department, office, or agency supervising or responsible for the placement of a person convicted of a felony to notify the county voter registration office of the conviction and placement of the person.

Effective: July 1, 2004.

Hershman, Drozda

January 12, 2004, read first time and referred to Committee on Elections and Civic Affairs.
January 27, 2004, amended, reported favorably — Do Pass.

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SB 382—LS 6871/DI 102+



January 28, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 382

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-7-13-5, AS AMENDED BY P.L.195-2003,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 5. (a) **Except as provided in section 6.1 of this**
4 **chapter**, a person described in section 4 of this chapter who is
5 otherwise qualified to register under this article is eligible to register
6 when the person is no longer:
7 (1) imprisoned; or
8 (2) otherwise subject to lawful detention.
9 (b) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of
10 the right to vote under this section and except as provided in
11 subsections (c), (d), and (g), a person who has been convicted of a
12 crime of domestic violence (as defined in IC 35-41-1-6.3) may not
13 possess a firearm upon the person's release from imprisonment or
14 lawful detention.
15 (c) Not earlier than five (5) years after the date of conviction, a
16 person who has been convicted of a crime of domestic violence (as
17 defined in IC 35-41-1-6.3) may petition the court for restoration of the

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person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

- (1) Whether the person has been subject to:
 - (A) a protective order;
 - (B) a no contact order;
 - (C) a workplace violence restraining order; or
 - (D) any other court order that prohibits the person from possessing a firearm.
- (2) Whether the person has successfully completed a substance abuse program, if applicable.
- (3) Whether the person has successfully completed a parenting class, if applicable.
- (4) Whether the person still presents a threat to the victim of the crime.
- (5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (d) or whether the person has committed a subsequent offense.

(d) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(e) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(f) A person has not been convicted of a crime of domestic violence for purposes of subsection (c) if the conviction has been expunged or if the person has been pardoned.

(g) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

- (1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.
- (2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 2. IC 3-7-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) **Except as provided in section 6.1 of this chapter**, this section applies to a person who is:

- (1) otherwise qualified to register under this article; and
 - (2) not imprisoned or subject to lawful detention.
- (b) A person described in subsection (a) who is:
- (1) on probation;
 - (2) on parole;

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1 (3) subject to home detention under IC 35-38-2.5; or
 2 (4) placed in a community corrections program under
 3 IC 35-38-2.6;
 4 is eligible to register and to vote.

5 SECTION 3. IC 3-7-13-6.1 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2004]: **Sec. 6.1. (a) A person who is convicted of a felony after**
 8 **June 30, 2004, who is otherwise qualified to register under this**
 9 **article, and who is:**

10 (1) imprisoned;
 11 (2) otherwise subject to lawful detention;
 12 (3) on probation;
 13 (4) on parole;
 14 (5) subject to home detention under IC 35-38-2.5; or
 15 (6) placed in a community corrections program under
 16 IC 35-38-2.6;
 17 is not eligible to register or to vote.

18 (b) A person who is convicted of a felony after June 30, 2004,
 19 who is otherwise qualified to register under this article, and who is
 20 no longer:

21 (1) imprisoned;
 22 (2) otherwise subject to lawful detention;
 23 (3) on probation;
 24 (4) on parole;
 25 (5) subject to home detention under IC 35-38-2.5; or
 26 (6) placed in a community corrections program under
 27 IC 35-38-2.6;
 28 is eligible to register and to vote.

29 SECTION 4. IC 3-7-46-2 IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2004]: **Sec. 2. (a) A person imprisoned**
 31 **following conviction of a crime is disfranchised during the person's**
 32 **imprisonment.**

33 (b) A person who is convicted of a felony after June 30, 2004, is
 34 disfranchised during the period that the person is:

35 (1) imprisoned;
 36 (2) otherwise subject to lawful detention;
 37 (3) on probation;
 38 (4) on parole;
 39 (5) subject to home detention under IC 35-38-2.5; or
 40 (6) placed in a community corrections program under
 41 IC 35-38-2.6.

42 SECTION 5. IC 3-7-46-6.2 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.2. (a) This section applies to each department, office, or agency that supervises or is responsible for persons convicted of a felony who are placed:**

(1) in lawful detention other than:

(A) a department of correction facility; or

(B) a county correctional facility;

(2) on probation;

(3) on parole;

(4) on home detention under IC 35-38-2.5; or

(5) in a community corrections program under IC 35-38-2.6.

(b) This section does not apply to a county sheriff who submits a report under section 6 of this chapter concerning persons placed in a county correctional facility.

(c) Not later than:

(1) January 31;

(2) April 30;

(3) July 31; or

(4) October 31;

of each year, the departments, offices, or agencies described in subsection (a) shall provide the county voter registration office with a report containing the information set forth in subsection (d) for those persons the department, office, or agency supervises or is responsible for processing under section 8 of this chapter.

(d) The report required by subsection (c) must identify each person the department, office, or agency supervises or is responsible for who:

(1) is a resident of Indiana;

(2) has been convicted of a felony in the county; and

(3) has been placed:

(A) in lawful detention other than:

(i) a department of correction facility; or

(ii) a county correctional facility;

(B) on probation;

(C) on parole;

(D) on home detention under IC 35-38-2.5; or

(E) in a community corrections program under IC 35-38-2.6;

during the previous quarter.

SECTION 6. IC 3-7-46-7, AS AMENDED BY P.L.209-2003, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7. The county voter registration office shall notify**

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1 the county voter registration office of each county where a person on
2 the list resides that a voter registered in that county has been listed on
3 the report described in section 6 **or 6.2** of this chapter.

4 SECTION 7. IC 3-7-46-7.5, AS ADDED BY P.L.209-2003,
5 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2004]: Sec. 7.5,. If the information provided under section 5,
7 ~~or 6~~, **or 6.2** of this chapter indicates that the person is disfranchised
8 under section 2 of this chapter, the county voter registration office
9 shall:

10 (1) remove the name of the person from the voter registration
11 records; and

12 (2) after January 1, 2006, enter the date and other information
13 regarding the cancellation into the computerized list under
14 IC 3-7-26.3;

15 on an expedited basis, as required under 42 U.S.C. 15483.

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SENATE MOTION

Madam President: I move that Senator Drozda be added as second author of Senate Bill 382.

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 382, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 36, delete "This" and insert "**Except as provided in section 6.1 of this chapter, this**".

Page 2, line 37, delete "convicted of a crime before July 1, 2004,".

Page 3, line 7, delete "crime" and insert "**felony**".

Page 3, line 18, delete "crime" and insert "**felony**".

Page 3, delete lines 29 through 34.

Page 3, line 39, delete "crime" and insert "**felony**",

Page 4, delete lines 6 through 42.

Page 5, delete lines 1 through 30, begin a new paragraph and insert:

"SECTION 5. IC 3-7-46-6.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.2. (a) This section applies to each department, office, or agency that supervises or is responsible for persons convicted of a felony who are placed:**

(1) in lawful detention other than:

(A) a department of correction facility; or

(B) a county correctional facility;

(2) on probation;

(3) on parole;

(4) on home detention under IC 35-38-2.5; or

(5) in a community corrections program under IC 35-38-2.6.

(b) This section does not apply to a county sheriff who submits a report under section 6 of this chapter concerning persons placed in a county correctional facility.

(c) Not later than:

(1) January 31;

(2) April 30;

(3) July 31; or

(4) October 31;

of each year, the departments, offices, or agencies described in subsection (a) shall provide the county voter registration office with a report containing the information set forth in subsection (d) for those persons the department, office, or agency supervises or is responsible for processing under section 8 of this chapter.

(d) The report required by subsection (c) must identify each person the department, office, or agency supervises or is

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responsible for who:

- (1) is a resident of Indiana;
- (2) has been convicted of a felony in the county; and
- (3) has been placed:
 - (A) in lawful detention other than:
 - (i) a department of correction facility; or
 - (ii) a county correctional facility;
 - (B) on probation;
 - (C) on parole;
 - (D) on home detention under IC 35-38-2.5; or
 - (E) in a community corrections program under IC 35-38-2.6;

during the previous quarter.

SECTION 6. IC 3-7-46-7, AS AMENDED BY P.L.209-2003, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The county voter registration office shall notify the county voter registration office of each county where a person on the list resides that a voter registered in that county has been listed on the report described in section 6 **or 6.2** of this chapter."

Page 5, line 33, after "5" insert ",".

Page 5, line 34, reset in roman "6".

Page 5, line 34, after "6" insert ", **or 6.2**".

Page 5, delete line 42.

Page 6, delete line 1.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 382 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 7, Nays 0.

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